

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

MARK L. HENDRIX,

Plaintiff

VS.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

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7 : 04-CV-104 (RLH)

ORDER

The above-styled Social Security appeal is presently before the court on the plaintiff's motion for attorney's fees. On March 17, 2006, this court entered an order reversing the Commissioner's decision in this matter and remanding it to the administrative level for further proceedings. The plaintiff has filed a motion for attorney's fees pursuant to 28 U.S.C. § 2412(d), a provision of the Equal Access to Justice Act.

Plaintiff's attorney seeks an award of attorney's fees in the amount of \$ 717.00, based on an hourly rate of \$125.00 for 5.8 attorney work hours. The Commissioner has indicated that she does not oppose the plaintiff's claim for attorney's fees.

DISCUSSION

The Equal Access to Justice Act ("EAJA"), as codified at 28 U.S.C. § 2412(d)(1)(A), provides that "a court shall award to a prevailing party other than the United States fees and other expenses, . . . incurred by that party in any civil action . . . brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust."

Subsection (d)(2)(A) further provides that awards of attorney's fees shall be based on prevailing market rates for comparable services, but that fees in excess of \$125 per hour shall not be awarded, "unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee."

It is ORDERED that plaintiff's motion for attorney's fees be **GRANTED** and that the Social Security Administration forward to plaintiff's attorney forthwith \$ 717.00, said sum representing compensation for 5.8 hours of attorney work performed at a rate of \$125 per hour. **SO ORDERED**, this 4th day of May, 2006.

/s/ Richard L. Hodge
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE

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